

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

CRAIG O. COPLEY,)
Petitioner,)
v.) Civil Action
ROBERT MCFADDEN, Warden, et al.,) No. 04-3555-CV-S-RED-H
Respondents.)

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate has completed his preliminary review of the petition and has submitted to the undersigned a report and recommendation that the petition be dismissed without prejudice.

Petitioner has filed exceptions to the Magistrate's Report and Recommendation in which he continues to challenge his mental health commitment.

Having fully reviewed the record de novo, this Court agrees with the Magistrate's findings that the petition should be dismissed without prejudice. A review of the records and files in this case establish that petitioner was properly committed for mental health care and treatment by the District Court for the Eastern District of North Carolina. United States v. Copley, 935 F.2d 669 (4th Cir. 1991). Challenges to the fact or duration of a mental health commitment and/or revocation of conditional release lies in the committing court. United States v. Copley, 25 F.3d 660, 662 (8th Cir.

1994).

Therefore, after a full review of the report and recommendation and the files and records in this case, it is concluded that the findings of fact, conclusions of law, and proposed actions of the Magistrate are correct and should be approved. Accordingly, it is

ORDERED that petitioner's exceptions should be, and they are hereby, CONSIDERED and OVERRULED. It is further

ORDERED that petitioner should be, and he is hereby, denied leave to proceed in forma pauperis. It is further

ADJUDGED that the petition herein should be, and it is hereby, dismissed without prejudice.

/s/ Richard E. Dorr
RICHARD E. DORR
United States District Judge

Date: June 28, 2005